vss

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.3302 OF 1998

Shashikant Mahadeo Gurav ... Petitioner

V/s.

The Secretary
Sonopant Dandekar Shikshan
Mandali, Palghar & Ors. ... Respondents

Ms.Kumud Bhatia for Petitioner
Mr.M.H. Solkar, AGP, for Respondent Nos.3 and 5

CORAM: **SMT.NISHITA MHATRE, J.**

DATED: **JULY 19, 2007**

P.C.:

. The petitioner has challenged the order of the School Tribunal dated 3.4.1998 in Appeal No.209 of 1997. The School Tribunal had dismissed the petitioner's appeal. The petitioner was appointed on 15.9.1993 as an Instructor. After he put in 4 years of service with the Respondent, the petitioner's services were terminated on 15.4.1997. Aggrieved by this decision, the petitioner challenged his removal before the School Tribunal. The School Tribunal has found that the petitioner belonged to the Other Backward Class category whereas the post was reserved for the Scheduled Tribe category. Although under Rule 9(9)(a), it is possible to interchange the categories if a candidate from a particular reserved category is not available, the candidate from the next

reserved category as mentioned in Rule 9(9) can be appointed. In the present case, it appears that the petitioner had no right to be appointed since there was already a person available from the Scheduled Caste category which is mentioned earlier in the order of preference of categories as stipulated in Rule 9(9) and, therefore, the Tribunal dismissed the appeal.

2. In any event, the petitioner is absorbed in another school and is working there. The question which remains is of backwages. In my view, there is no error committed by the School Tribunal. Admittedly, a candidate from the Scheduled Caste category was available and he ought to have been preferred for being appointed in a vacancy reserved for an Scheduled Tribe candidate; the Petitioner being an Other Backward Class candidate.

3. Petition dismissed.